

### **REMARKS**

The non-final Office Action mailed May 5, 2005, has been received and the Examiner's comments carefully considered.

Claims 1-26 are pending in the application.

Claims 10-26 are cancelled as being drawn to a non-elected invention.

Claims 1-9 are rejected.

Claims 1, 4, and 8 were amended as indicated.

### **Claims Rejected under 35 U.S.C. §112**

Claims 1-9 are rejected under 35 U.S.C. §112, first paragraph, because the specification while enabled for X being methylene or halomethylene, was alleged to not reasonably provide enablement for X being NR.

Independent claims 1, 4, and 8 were amended to delete X being NR. However, applicant believes that X being NR, that is phosphoramidate compounds or derivatives, would be readily apparent to one skilled in the art from the general teachings of the application in selecting analogous or equivalent starting materials for preparing compounds where X is NR.

Accordingly, the rejection is moot and applicant respectfully requests the Examiner withdraw the rejection.

### **Claims Rejected under 35 U.S.C. §102**

Claims 1-3 and 8-9 were rejected under 35 U.S.C. §102(a) as being anticipated by compound 19a and the reaction Scheme 1 in page 2534 of Lesiak et al. (J. Med. Chem, 40(16), 1997, "*Lesiak*"). The rejection is respectfully traversed.

Applicant respectfully notes that the *Lesiak* reference has a publication date of August 1, 1977, and an abstract publication date of July 1, 1997, as noted on applicant's Information Disclosure Statement. The present Application claims the benefit of priority to applications 60/028,154, filed October 9, 1996, and 60/038,360, filed February 13, 1997, reference page 1 of the application as filed. Thus, the *Lesiak* publication, which published after the priority filing dates of the present application, is not a proper anticipating reference.

Accordingly, applicant respectfully submits the rejection in view of *Lesiak* is overcome and should be withdrawn.

### **Claims Objected to under 35 U.S.C. §102**

Claims 4-7 were objected to as allegedly being dependent upon a rejected base claim, but were indicated as allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. The rejection is respectfully traversed.

Independent Claim 4 was amended as indicated, but does not in any way depend from a rejected base claim, and is now believed to overcome the Examiner's objection.


**Conclusion**

The claims are believed to be in a condition for allowance. A Notice of Allowance is respectfully requested. If the Examiner wishes to discuss the merits of this application, he is invited to contact the applicant's representative at 612-336-4686 or the number below.



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